

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

**UNITED STATES OF AMERICA**

**CRIMINAL ACTION NO. 10-00085**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**BEATO REYNOSO**

**MAG. JUDGE KAREN L. HAYES**

**RULING**

Pending before the Court is a Motion for Reconsideration of Sentence Imposed [Doc. No. 57] filed by Defendant Beato Reynoso (“Reynoso”). Reynoso moves the Court to “reconsider the sentence imposed on him,” claiming that he did not commit a Grade A violation of his supervised release and that the Court erred by using the state criminal charge against him. Reynoso’s pleading is properly construed as a petition for writ of *habeas corpus*, filed pursuant to 28 U.S.C. § 2255.

On March 19, 2012, Reynoso filed a § 2255 petition. [Doc. No. 19]. That petition was dismissed by the Court. [Doc. Nos. 48 & 49]. Although Reynoso appealed, this Court denied a certificate of appealability. On June 4, 2013, the United States Court of Appeals for the Fifth Circuit dismissed Reynoso’s appeal for failing to timely comply with the requirements for a certificate of appealability.

On August 28, 2013, Reynoso filed the instant motion. This motion, attacking the validity of his sentence, is appropriately construed as a second and successive § 2255 petition. Therefore, the motion must be dismissed for failure to obtain leave for filing from the Fifth Circuit. A separate

judgment dismissing Reynoso's motion, as construed, will issue.

MONROE, LOUISIANA, this 29<sup>th</sup> day of August, 2013.

  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE